The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Commerce Committee

BILL: CS/SB 2500

INTRODUCER: Commerce Committee and Senator Altman

SUBJECT: Space and aerospace infrastructure

DATE: March 24, 2010 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Pugh	Cooper	CM	**Fav/CS**
2.			TA	
3.			WPSC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE.....	X	Statement of Substantial Changes
B. AMENDMENTS........................		Technical amendments were recommended
		Amendments were recommended
		Significant amendments were recommended

I. Summary:

Space Florida was created by the Legislature in 2006 to act as the state's space-related economic development entity. Space Florida's major challenge is the retirement of NASA's Space Shuttle Program. The last shuttle mission is scheduled for September 2010. The "moon to Mars" successor program (known as Constellation) is scheduled to begin launches no earlier than 2015. The intervening period is referred to as the "shuttle gap," in which a number of employees in the aerospace industry, in Florida and other states, likely will lose their current jobs. But the Obama Administration's plan to end Constellation and rely instead on commercial spaceflight companies to fly cargo and crew into space has added more uncertainty. Current estimates are that 9,000 Florida aerospace workers may be unemployed after the last shuttle flight, creating a ripple effect throughout the Space Coast communities of other job losses and business failures.

CS/SB 2500 creates the Space Transition and Revitalization (STAR) Act. The bill:

- Modifies the Quick Action Closing Fund (QAC) to cap at 20 percent of its legislative appropriation projects that retain or create high-technology jobs associated with developing a more diverse aerospace economy in Florida;
- Waives QAC requirements for projects that seek to mitigate the negative economic impacts on Florida of the Space Shuttle Program's impending retirement;

- Creates the "Space Business Investment and Financial Services Initiative," which directs the president of Space Florida to develop a 5-year strategic plan, to be updated annually, for the management and goals of the Space Business Investment and Financial Services Trust Fund;[1] specifies the responsibilities of Space Florida's board of directors in approving expenditures from the trust fund; and requires periodic reports;
- Diverts for the next 4 fiscal years that portion of state sales and use tax collected from businesses operating attractions and tours at Kennedy Space Center from the state General Revenue Fund to the Space Business Investment and Financial Services Trust Fund for use by Space Florida for infrastructure projects;
- Provides Space Florida with flexibility in how it spends the remaining $10.8 million from Specific Appropriation 2649 of ch. 2008-152, L.O.F.; and
- For FY 10-11, appropriates just over $25.5 million in nonrecurring state general revenue for various Space Florida-related activities.

CS/SB 2500 creates ss. 212.0502 and 331.370, F.S., and several unnumbered sections of chapter law, and amends s. 288.1088, F.S.

II. Present Situation:

Space Florida

Prior to July 1, 2006, Florida had three statutorily created space entities: the Florida Space Authority, the Florida Space Research Institute, and the Florida Aerospace Finance Corporation. Each had its own set of responsibilities, but there was some overlap, as well, particularly in the area of developing commercial space activities.

That changed with the passage of HB 1489 (ch. 2006-60, L.O.F.), which combined the three existing space entities into one, Space Florida, and substantially rewrote Part III of ch. 331, F.S. Space Florida's mission encompasses the responsibilities of all of its predecessor entities, but with a current emphasis on economic development. As expressed in s. 331.302(1), F.S., Space Florida was created to:

> "… foster the growth and development of a sustainable and world-leading aerospace industry in this state. Space Florida shall promote aerospace business development by facilitating business financing, spaceport operations, research and development, workforce development, and innovative education programs."

Space Florida is funded with a combination of state funding and revenues from leases and fees from conduit financing agreements. The state funding typically is general revenue, and is initially deposited in the Economic Development Trust Fund managed by OTTED.

As an agent of the state, Space Florida holds title to four aerospace-related infrastructure assets, and has obtained, or is in the process of obtaining, licenses or leases for two others. The major assets are the Space Life Sciences Lab, Reusable Launch Vehicle (RLV) Hangar, Solid Rocket

[1] This trust fund is the subject of SB 2476.

Operational Storage Facility (OSF) at Camp Blanding, and Space Launch Complexes 36, 46, and 47.[2]

Space Florida also is developing plans for "Exploration Park," planned as a mixed-use, multi-tenant technology and commerce park supporting both government and commercial space activities. Space Florida recently selected a general contractor to design and build the complex in phases. It will be located near the existing Space Life Sciences Lab, and on non-restricted property within Kennedy Space Center.

A final aspect of Space Florida's economic-development abilities is the use of conduit financing. Space Florida and its predecessor agencies have, over the years, entered into four conduit financing agreements, pursuant to s. 331.305, F.S., whereby it can issue revenue bonds or other debt instruments for the express purpose of providing capital financing for a third party, typically a private business, which in turn is solely responsible for repaying the debt. Among the four facilities built using this financing structure are two KSC attractions: the "Shuttle Launch Experience"[3] and the "Saturn V" Visitor Center.[4]

A New Direction for NASA

Since 2005, concerns have been growing over the scheduled 2010 retirement of the Space Shuttle program and the estimated 5-year gap before its successor, Constellation, was scheduled to begin flights to the ISS and beyond.

In preparation, NASA in 2006 announced two separate, but intertwined programs: the Commercial Orbital Transportation Services (COTS) program, designed to develop vehicles capable of flight to the ISS and which could ferry cargo and human crew; and the Commercial Resupply Services (CRS) program to handle the actual deliveries to the ISS.[5]

For the next 2 years, NASA evaluated the proposals submitted by aspiring commercial spaceflight companies, and on December 23, 2008, entered into CRS contracts with Orbital Sciences and SpaceX to utilize their COTS cargo vehicles for cargo delivery to the ISS. On February 1, 2010, NASA awarded $50 million in preliminary funding to five companies to further development of their proposed human-rated commercial ships: Blue Origin, Boeing, Paragon Space Development Corporation, the Sierra Nevada Corporation, and United Launch Alliance.[6]

When President Obama released his FY 10-11 budget request on Feb. 1, 2010, there was no funding for the Constellation program, but increased funding over each of the next 5 years to:

- Invest in opportunities to use commercial spaceflight companies to carry astronauts and cargo into space;

[2] http://www.flsenate.gov/data/Publications/2010/Senate/reports/interim_reports/pdf/2010-307cm.pdf.

[3] More information about the attraction is available at http://www.kennedyspacecenter.com/shuttle-launch-experience.aspx. Site last visited Aug. 15, 2009.

[4] More information is available at http://www.kennedyspacecenter.com/apollo-saturn-v-center.aspx. Site last visited Aug. 15, 2009.

[5] More information about NASA's commercial space program is available at http://www.nasa.gov/offices/c3po/home/. Last visited March 18, 2010.

[6] United Launch Alliance (UAL) is a joint venture of Lockheed-Martin and Boeing.

- Pursue new exploration research and development programs (in areas such as in-orbit refueling, heavy-lift and propulsion rocketry, and robotic precursor missions to outer space in advance of astronaut travel;
- Provide more funding for the ISS, with a goal to extend its lifetime to at least 2020 or beyond with assistance from other nations;
- Add nearly $1 billion to modernize KSC to improved use by NASA and others;
- Spend an additional $600 million to assist the remaining Space Shuttle flights;
- Provide grants and other funds to promote space-related research and development; and
- Increase funding for NASA's expanded responsibilities for climate research.

Congress has begun committee hearings on the Obama Administration's space proposals, and opposition has been expressed by some members of Congress, including members of the Florida delegation, about the proposed shift from a space launch program using government-owned vehicles to one using private commercial vehicles, albeit financed with public money.

<u>NASA's Economic Impact</u>
NASA's operations in Florida are a major economic driver.[7] The total amount of NASA spending (so-called "outside money") for KSC-related activities was $1.96 billion, including $1.1 billion in wages in FY 2007-2008. Counting indirect spending, the total economic impact of NASA to Florida was estimated at $4.1 billion in production output; $2.1 billion in household income; 40,802 jobs; and $103 million in state and local tax revenues. The study also found that 98 percent of the output impact and 99 percent of the jobs and wage impacts occur in the seven-county Central Florida region[8] around KSC.

<u>State Incentives for Space-Related Businesses</u>
The State of Florida offers three aerospace-specific financial incentives, along with a number of general business incentives and tax exemptions, of which aerospace companies can take advantage, depending on their location and investment.

The three specific incentives are:

- the Qualified Defense Contractor and Space Flight Business Tax Refund Program,[9] which authorizes a tax refund based on $3,000 per retained or created job, which pays an annual wage of at least 115 percent of the area's average annual wage and meets other conditions of the business' agreement with OTTED;
- A sales tax exemption for heavy machinery and equipment used in aerospace, defense, and semiconductor facilities;[10] and
- A sales tax exemption for heavy machinery and equipment used in spaceport activities, defined as activities directed or sponsored by Space Florida on spaceport property.[11]

[7] Information in the paragraph was obtained from the report, "Economic Impact of NASA in Florida, FY 2008." Available at http://www.nasa.gov/centers/kennedy/pdf/318131main_economic-impact08.pdf. Last visited Feb. 24, 2010.
[8] The report lists those seven counties as Brevard, Flagler, Lake, Orange, Osceola, Seminole, and Volusia.
[9] Section 288.1045, F.S.
[10] Section 212.08(5)(j), F.S.
[11] Section 212.08(5)(b)1. and 2., F.S

Aerospace or spaceflight businesses also could be eligible – based on their location, job creation and wage numbers, and level of investment – for 12 other state incentives.[12] One of them is the Quick Action Closing Fund (QAC),[13] which, as its name implies, is used by the state to "close the deal" when recruiting new businesses or encouraging existing businesses to remain in Florida and expand.

The statutory criteria for QAC projects are:

- Operating in a state-designated "targeted industry" pursuant to s. 288.106, F.S.,[14] which aviation and aerospace companies are;
- Having a return on investment (ROI) or "payback" to the state of at least $5:$1;
- Being an inducement in the company's decision to locate or remain in Florida;
- Paying an average wage of at least 125 percent of the statewide or areawide private-section annual average wage; and
- Having the support of the local community.

However, these criteria may be waived by OTTED and the state's business recruiter, Enterprise Florida, Inc., (EFI) for two reasons: undefined "extraordinary circumstances" or projects in rural areas of critical economic concern.

The QAC incentive is awarded by the Governor, after consultation with the President of the Senate and the Speaker of the House of Representatives and approval of the Legislative Budget Committee. For FY 09-10, the Legislature appropriated $13.8 million to QAC.

III. Effect of Proposed Changes:

CS/SB 2500 creates the Space Transition and Revitalization (STAR) Act, the framework for a number of space business initiatives expressed in the bill. The bill also includes $25.575 million in legislative appropriations from non-recurring state general revenue.

Section 1: Names this bill the STAR Act.

Section 2: Creates s. 212.0502, F.S., to specify that sales and use taxes collected under ch. 212, F.S., from any business contracted or subcontracted by NASA to sell admissions or tours at KSC and Cape Canaveral Air Force Station, and conducts business at these locations, shall be deposited into the Space Business Investment and Financial Services Trust Fund.[15] Specifically excluded from deposit are discretionary sales surtaxes (commonly called local-option sales taxes) authorized under s. 212.055, F.S.

[12] The 12 incentives are the: Brownfield Redevelopment Bonus Refund Program; Capital Investment Tax Credit; Contaminated Site Rehabilitation Tax Credit; High Impact Performance Incentive Grant; Incumbent Worker Training Program; Innovation Incentive Program; Quick Action Closing Fund; Qualified Targeted Industry Tax Refund Program; Quick Response Training Program; Rural Job Tax Credit Program; Economic Development Transportation Fund, or the "road fund;" and Urban High-Crime Area Job Tax Credit Program.

[13] Section 288.1088, F.S.

[14] The complete targeted industry list is available in the 2009 Incentives Report, page 49. Published by Enterprise Florida, Inc. Available at: http://www.eflorida.com/uploadedFiles/Florida_Knowledge_Center/My_eFlorida_EFI_and_Partners/Floridas_Economic_Perspective/2009%20Incentives%20Report.pdf. Free registration required. Site last visited March 19, 2010.

[15] This trust fund will be created if CS/SB 2476 or similar legislation passes the Legislature this session and becomes law.

The applicable businesses are directed to file a monthly sales-and-use tax return with the Department of Revenue (DOR) that segregates information on taxes collected on sales, admissions, tours, leases, and licenses. DOR must keep this information confidential, pursuant to s. 213.053, F.S.

This diversion of tax collections expires June 30, 2014; after that date, the tax collections will revert to deposit in the state General Revenue Fund.

Section 3: Amends s. 288.1088, F.S., to express legislative findings about the negative impact the Space Shuttle retirement will have on Florida, and how it is in the state's interest to provide incentives to mitigate the anticipated job losses and other economic impacts, and to create a more diverse aerospace economy in Florida.

The CS specifies that up to 20 percent of the funding made available under the QAC program may be used for projects that "retain or create high-technology jobs directly associated with developing a more diverse aerospace economy" in Florida. As worded, this provision caps QAC expenditures for space projects. The CS also allows OTTED and EFI to waive the wage, ROI, and other eligibility criteria to mitigate the impacts of the conclusion of the Space Shuttle Program.

Section 4: Creates s. 331.370, F.S., the "Space Business Investment and Financial Services Initiative." This section expresses a number of legislative findings related to the critical need of capital assistance to, financing of, and investments in aerospace businesses, as a way to offset job losses tied to the shuttle's retirement, and to promote economic growth.

The process as established in this section is:

- Space Florida's *president* is directed to develop a 5-year strategy and plan for managing the "Space Business Investment and Financial Services Trust Fund" (trust fund) and achieving its goals. Annual updates to the strategy and plan are required, and must be incorporated in Space Florida's financing assistance plan.
- These funds must be used exclusively to provide investment and financial services to new, expanding, and relocating space businesses, programs, and projects within Florida. The funds must not be used for Space Florida's personnel, administrative, or overhead expenses.
- The strategy and plan must be submitted to Space Florida's *board of directors* for its approval, before any monies in the trust fund are used. The *board of directors* also may adopt procedures and rules for the approval of all proposed expenditures and investments from the trust fund.
- *OTTED* must receive a quarterly financial report, prepared by Space Florida's president, on the use and status of the trust fund.
- Beginning January 1, 2011, and every year thereafter, Space Florida must submit a report to the *Governor*, the *President of the Senate*, and the *Speaker of the House of Representatives* summarizing the activities and accomplishments of the businesses that received assistance from the trust fund during the previous 12 months.

Section 5: Provides flexibility for Space Florida on how to spend funds appropriated in Specific Appropriation 2649 of ch. 2008-152, L.O.F. [16]

In 2008, the Legislature appropriated $14.5 million in general revenue to Space Florida specifically to renovate SLC-36 into a multi-use, multi-vehicle launch facility for liquid-fueled rockets. For a number of reasons, release of the funds by OTTED was delayed.[17] Currently, about $3.7 million of the $14.5 million has been spent on the SLC-36 project, and Space Florida officials want the ability to shift those funds to projects at other SLCs, and to otherwise advance aerospace technology related to the commercial space transportation industry.

Section 6: Appropriates $10 million in nonrecurring state general revenue to the Space Business Investment and Financial Services Trust Fund for FY 10-11 to establish and provide initial funding for the trust fund. Any balance left at the end of the fiscal year will remain in the trust fund and be carried forward for future use by Space Florida, rather than revert to the state's General Revenue Fund.

Section 7: Appropriates $3 million in nonrecurring general revenue to Space Florida for FY 10-11 exclusively for the purpose of providing targeted business-development support services and business recruitment. Examples of eligible services are securing federal programs, securing contract and grant opportunities for space-related businesses in Florida, and "engaging company and federal officials in discussions regarding new program projects" for Florida. This provision specifies that an emphasis must be placed on using this appropriation to assist small- and medium-sized businesses on a statewide basis. The funds may not be used for Space Florida's administrative or operating costs.

Section 8: Appropriates $12.575 million in nonrecurring general revenue to OTTED for FY 10-11 for deposit in the trust fund for infrastructure needs for space businesses that plan to create high-technology, high-wage jobs.

Section 9: Specifies this act shall take effect July 1, 2010, contingent on the passage of SB 2476 or similar legislation during the same legislative session, or an extension thereof, and which becomes law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[16] This provision is the subject of CS/SB 1776 (which passed the Commerce Committee on March 3, 2010, and is included in CS/SB 1752, which passed the Policy & Steering Committee on Ways and Means on March 18, 2010.

[17] For more details, see the analysis for CS/SB 1776, available at http://www.flsenate.gov/data/session/2010/Senate/bills/analysis/pdf/2010s1776.cm.pdf.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

The fiscal impact is unknown for CS/SB 2500. The Revenue Estimating Conference (REC) has not reviewed it.

However, the REC at its March 12, 2010, meeting, evaluated the linked bill HB 2476 and proposed amendments. At the time, language similar to the sales tax diversion provision in Section 2 of CS/SB 2500 was in HB 2476; the REC estimated a zero fiscal impact of that provision because the diversion of certain sales tax collections at KSC and the Cape Canaveral Air Force Station from the state General Revenue Fund to the new trust fund would be a wash.

Based on historical sales tax collections from affected KSC vendors and a projected growth rate of 5 percent annually, DOR had reported to the REC that the amount of sales tax revenues that likely would be available for deposit in the new trust fund would be an estimated $5.2 million cash in FY 10-11, $6 million cash in FY 11-12, $6.3 million cash in FY 12-13, and $6.6 million in cash in FY 13-14.

B. Private Sector Impact:

Indeterminate, but likely positive.

C. Government Sector Impact:

SB 2500 appropriates $25.575 million in nonrecurring general revenue to either OTTED or Space Florida, for the purposes of implementing this initiative. It appears that some of this appropriation is duplicated in CS/SB 1752.

VI. Technical Deficiencies:

Line 287 of CS/SB 2500 references s. 331.305(6), F.S., as the citation for Space Florida’s “financing assistance plan.” The plan is not mentioned in that subsection; perhaps the drafter’s intent was to reference s. 331.3051(1), F.S., which mentions Space Florida’s annual report, to include information about the entity’s financing activities.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Commerce Committee on March 24, 2010:

- Adds a new funding source for STAR: the sales tax revenues collected from attractions vendors at KCS. This language diverts from the state General Revenue Fund about $5.2 million in FY 10-11 for use by Space Florida to implement STAR.
- Prevents mandates questions from being raised because it exempts local-option sales taxes from being included in this revenue stream to STAR.
- Specifies general uses of funds earmarked for the STAR initiative, and specifies that these funds must not be used for Space Florida's personnel, administrative, or overhead expenses.
- Revises the language providing Space Florida with flexibility in approved uses of a 2008 state appropriation for the entity to match the language in CS/SB 1776. It specifically adds "advancing aerospace technology…for the commercial space transportation industry" as another approved use, which is consistent the Obama Administration's plan to expand aerospace R&D spending.
- Replaces OTTED with the Space Business Investment and Financial Services Trust Fund, as the recipient of $10 million for space infrastructure projects.

B. Amendments:

None.